

SENATE BILL 1274
By Jordan

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 15, Part 2, relative to partial-birth abortions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 15, Part 2, is amended by adding the following language as a new, appropriately designated section:

Section _____. (a) For purposes of this section, unless the context otherwise requires:

(1) "Partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living human fetus before killing the infant and completing the delivery.

(2) "Fetus" and "infant" are used interchangeably to refer to the biological offspring of human parents.

(b) No person shall knowingly perform a partial-birth abortion.

(c) Subsection (b) shall not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering condition caused by or arising from the pregnancy itself; provided, that no other medical procedure would suffice for that purpose.

(d) (1) The woman upon whom a partial-birth abortion has been performed in violation of this section, the father of the fetus or infant, and the maternal grandparents

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of the fetus or infant if the mother has not attained the age of eighteen (18) years at the time of the abortion, may obtain appropriate relief in a civil action, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this act: and

(B) Statutory damages equal to three (3) times the cost of the partial-birth abortion.

(3) If judgment is rendered in favor of the plaintiff in an action described in this subsection, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. If the judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

(e) (1) Performance of a partial-birth abortion in knowing or reckless violation of this act shall be a Class C felony.

(2) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this act for violating this act, or any provision thereof, or for conspiracy to violate this act or any provision thereof.

SECTION 2. (a) If any one or more provisions, clauses, phrases, or words of subsection (c) or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be inseverable.

(b) If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of the remaining sections or the application thereof to any person or circumstance is found to be unconstitutional, the same are hereby declared to be severable and the balance of the act shall remain effective notwithstanding such unconstitutionality. The legislature hereby

declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase, or word thereto, with the exception of subsection (c), irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases, or words be declared unconstitutional.

SECTION 3. This act shall take effect July 1, 1997, the public welfare requiring it.

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